IN THE HIGH COURT OF GUJARAT AT AHMEDABAD


SPECIAL CIVIL APPLICATION No 6586 of 1997


For Approval and Signature:

Hon'ble  MR.JUSTICE N.N.MATHUR
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1.      Whether  Reporters  of  Local Papers may be allowed
        to see the judgements?


2.      To be referred to the Reporter or not?


3.      Whether Their  Lordships  wish to see the fair copy
        of the judgement?


4.      Whether  this  case involves a substantial question
        of law as to the interpretation of the Constitution
        of India, 1950 of any Order made thereunder?


5.      Whether  it is to be circulated to the Civil Judge?


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JAMIYATRAI LILADHAR JOSHI
Versus
    GSRTC
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    Appearance:
        MR HK RATHOD for Petitioner
        MR YS LAKHANI for Respondent No.  1


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    CORAM :  MR.JUSTICE N.N.MATHUR
    Date of decision: 09/10/97

ORAL JUDGEMENT


 The petitioner was appointed as conductor in  the
Kutch  State Road Transport Corporation  in  Class-IV
category in the year 1955.  As per the service conditions
age of superannuation was  60  years.   Thereafter  the
petitioner  was  absorbed  in  the  Gujarat  State  Road
Transport Corporation (hereinafter referred  to  as  'the
Corporation')  in  Class-IV  category  on  integration  of

services. The Corporation protected the service conditions of Class-IV employees of Kutch State Road Transport Corporation under the Resolution No. 139 dated 27.1.1961 and incorporated in Memo dated 5.4.1961 (Annexure-B). In his service career he earned 2-3 promotions and climbed to the office of the Superintendent in Class-III category and enjoyed all benefits and allowances available to Class-III employees. The superannuation age for such Class-III employees is 58 years, and thus as per the recorded date of birth 25.9.1939, he was served with retirement notice dated 10.2.1997.

It is contended by Mr. H.K. Rathod, learned counsel for the petitioner that as per the principle of integration the petitioner is entitled to continue upto the age of 60 years. He has invited my attention to Paragraph-10 of the Memo Annexure-B which provides the age of retirement. It is provided therein that retiring age for the employees of the Gujarat State Road Transport Corporation will be 55, but in respect of Class-III and Class-IV employees retiring age may be extended upto 58 years. However, there are exceptions in the case of employees from Saurashtra and Kutch area. The relevant portion with respect to Kutch area which applies to the petitioner is extracted as follows:

"Similarly, in the Kutch Area, the existing permanent class IV employees, whose retiring age is 60 years at present, may be allowed to continue, upto 60 years of age. This concession will, however be purely personal to the existing incumbents only and will not be extended to any other employee."

Relying upon the above paragraph it is contended by Mr. Rathod that the principle of retiring age for employees of Saurashtra and Kutch area is 60 years which is purely personal available to employees like petitioner only. He relies upon a decision of the Apex Court reported in AIR 1991 SC 276.

The stand of the respondent is that even as per the agreement the retirement age for Class-IV employees is 60 years, but the petitioner has been promoted on the post of Assistant Traffic Superintendent which falls in Class-III and, therefore, the said clause will not be applicable in his case.

I have considered the rival contentions. I have also gone through the Supreme Court judgment cited by Mr. Rathod. In my view, the said authority could have been

of some use to the petitioner, if he was to retire in Class-IV category. I have read the extracted clause, it clearly applies to employees of Class-IV category only. Even if the petitioner would have retired as Class-III employee in Kutch State Road Transport Corporation, he would not have been allowed to continue upto to the age of 60. It is personal only to the employee who retires as Class-IV employee. The petitioner has been promoted to Class-III and, therefore, he will not be entitled to the benefit under the said clause. Thus, in my view the petitioner has been rightly retired at the age of 58 years. In view of this I find no merit in this Special Civil Application and the same is accordingly rejected. Rule discharged.

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